United Nations S/2003/918

Security Council

Distr.: General
26 September 2003

Original: English

Letter dated 25 September 2003 from the Secretary-General addressed to the President of the Security Council

I have the honour to convey the attached communication, dated 19 September 2003, from the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina (see annex).

I should be grateful if the present letter could be brought to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

03-53223 (E) 011003

Annex

Letter dated 19 September 2003 from the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina addressed to the Secretary-General

Pursuant to Security Council resolution 1031 (1995) of 15 December 1995, in which the Council requested the Secretary-General to submit to it reports from the High Representative in accordance with annex 10 of the General Framework Agreement for Peace in Bosnia and Herzegovina and the Conclusions of the London Peace Implementation Conference of 8 and 9 December 1995, I herewith present to you my twenty-fourth report (see enclosure). I would kindly ask for the report to be distributed to the Council members for their consideration.

In order to better satisfy the above-mentioned reporting requirements of resolution 1031 (1995), I propose to submit my reports to you for onward transmission to the Security Council on a more regular schedule. The next report will cover the period from 1 September to 31 December 2003 and you will receive it in January 2004. From then on, reports will cover a six-month period and you will receive them in January and July each year. Should you or any Council member require information at any other time, I would be pleased to provide an update in the form of a letter.

(*Signed*) Paddy **Ashdown**

Enclosure

Twenty-fourth report of the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General of the United Nations

12 October 2002-31 August 2003

Pursuant to Security Council resolution 1031 (1995) of 15 December 1995, in which the Council requested the Secretary-General to submit to the Council reports from the High Representative on the Implementation of the Peace Agreement on Bosnia and Herzegovina in accordance with annex 10 of the Peace Agreement and the Conclusions of the London Peace Implementation Conference of 8 and 9 December 1995, I herewith present the twenty-fourth report.

Summary

Since taking over as High Representative on the Implementation of the Peace Agreement on Bosnia and Herzegovina on 27 May 2002, I have made it clear that my aim, during my term of office, is to set Bosnia and Herzegovina irreversibly on the road to statehood within the European Union (EU). My priorities remain the rule of law and economic reform — justice and jobs. My aim is also to continue to improve the functioning and effectiveness of Bosnia and Herzegovina's key governing institutions, and to ensure that they can depend on more reliable funding arrangements.

In the period since my last report, we have made measurable progress. We have set up the Anti-Crime and Corruption Unit (formerly called the Serious Crimes Unit) within my Office, to deal with crime and corruption and have begun the process of restructuring the Bosnia and Herzegovina court system at all levels. The new Legal Reform Unit, High Judicial and Prosecutorial Councils, and Special Chamber in the State Court and a Special Department in the Bosnia and Herzegovina Prosecutor's Office are now functioning.

On 7 March, we launched a major attack on the networks which provide funding and support for key International Criminal Tribunal for the Former Yugoslavia indictees, including Radovan Karadzic. My Office has also been tasked by the Peace Implementation Council with establishing a system for domestic prosecution of war crimes.

The EU Police Mission was launched on 1 January 2003 and is now fully — and successfully — operational.

I launched the expert reform commissions — comprised of local representatives but chaired in each case by a respected international expert — covering indirect tax policy, defence and intelligence. A wholly locally staffed commission was also set up to explore possible ways to achieve the unification of Mostar, which made important progress but fell short of success. A second attempt under international community chairmanship is now under way.

The state-level Civil Service Agency, which was created in May 2002 by the imposition of the Law on Civil Service, is now fully operational and an important factor in introducing, though not without some resistance, modern standards in public administration. We are now working to ensure that the Federation Civil Service Agency is fully funded and fully operational.

After a long process of government formation, coalition governments were formed at the state, entity and cantonal levels.

While full restoration of Bosnia and Herzegovina's pre-war multi-ethnic tapestry remains a distant prospect, the implementation of property legislation, the increasing visibility and self-confidence of return communities and, most importantly, the numbers of people returning, are encouraging and mean that we are on track for the drawdown of the Reconstruction and Return Task Force at the end of 2003. It will be extremely important, however, to maintain adequate local and international funding for refugee return and international monitoring of the process for some time after the drawdown of the Task Force.

The media development mandate has largely been completed and the department closed down, though there is further important and potentially contentious work to do to establish an independent functional and economically viable public broadcasting system.

A mission implementation plan for my Office has been drawn up and was endorsed by the Peace Implementation Council at the beginning of the year, and now forms the basis for the work of my Office in Bosnia and Herzegovina.

I. Introduction

1. This is my second report to the Secretary-General since taking over as High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina on 27 May 2002. In the present report, I will assess the progress made toward the goals outlined in my last report and review developments during the reporting period.

II. The rule of law

2. When I arrived in Sarajevo, I outlined my priorities as first justice, then jobs, through reform. Building on the work of my predecessor, we have made further progress in recent months. In the field of the rule of law, the key steps have been the following:

- On 18 October 2002, I issued a decision ensuring that the building and land which had been identified as the site for the Court of Bosnia and Herzegovina would be dedicated, in perpetuity, for such purposes. My objective is to have that state level court address the most serious cases of financial crime, organized crime and political corruption.
- On 1 November 2002, I imposed a complete restructuring of the court system within Bosnia and Herzegovina, closing and consolidating courts throughout both entities in order to achieve a more efficient and more accountable judicial system. The number of first-instance courts was reduced from 78 to 47, subject matter jurisdiction was harmonized and commercial departments are to be created in 15 first-instance courts. They also provided the necessary framework to enable the High Judicial and Prosecutorial Councils (HJPCs) to announce judicial positions in the first- and second-instance courts in the entities.
- The practical implementation of the streamlined court system has started. Meetings with the 12 Ministers of Justice have been held and visits to the courts affected conducted to assess budget, space, renovation and equipment needs.
- On 1 November 2002, I imposed amendments to the laws establishing judicial training centres in order to make it possible for those centres to become operational and begin to provide needed training to judges and prosecutors throughout Bosnia and Herzegovina. In December 2002, the HJPCs adopted two training programmes on criminal procedure for judges and prosecutors.
- Thirteen disciplinary panels were established within the HJPCs to hear complaints against incumbent judges and prosecutors. During this period, 166 complaints were received by the HJPCs and forwarded to the disciplinary prosecutor. Twenty-three judges submitted their resignations, 10 of whom had been previously suspended by the High Representative.
- The High Judicial and Prosecutorial Council has reviewed over 300 applications for the first wave of vacancy announcements in seven different courts and prosecutor's offices: the Court of Bosnia and Herzegovina, the Prosecutor's Office of Bosnia and Herzegovina, the Entity Supreme Courts and Prosecutor's Offices and the Constitutional Court of the Republika Srpska.

During the months of November and December 2002, the HJPCs interviewed 171 candidates for those vacancies.

- On 2 December 2002, all remaining judicial and prosecutorial posts for the middle and lower tier were advertised. By the closing date of 13 January 2003, more than 1,600 applications had been received for the approximately 900 positions. The process of reselection will continue throughout 2003.

- On 16 January 2003, the HJPC appointed eight members to the Criminal Division of the State Court and a Chief Prosecutor and three assistants to the Prosecutor's Office of Bosnia and Herzegovina.

- On 24 January 2003, the Criminal Procedure Code of Bosnia and Herzegovina was imposed, which entered into force on 1 March 2003. This represents a giant leap in the process of reforming the criminal justice system of Bosnia and Herzegovina. Together with the Criminal Code, which entered into force on the same date, it renders the Court of Bosnia and Herzegovina operative.

- On 27 January 2003, the newly appointed judges of the Court of Bosnia and Herzegovina and prosecutors of the Prosecutor's Office of Bosnia and Herzegovina took their oaths of office in a widely welcomed ceremony. On that same day, the Court of Bosnia and Herzegovina held a ceremony recognizing its occupancy of its newly renovated temporary facilities.

- We are in the process of recruiting international judges and prosecutors to serve in the special criminal panels of the Court of Bosnia and Herzegovina and the special division of the Prosecutor's Office of Bosnia and Herzegovina. Provisions for the participation of those international members were included in the amendments imposed on 24 January.

- The Criminal Division of the Court of Bosnia and Herzegovina and Prosecutor's Office of Bosnia and Herzegovina are off to a productive start. The Prosecutor's Office brought charges against eight defendants for counterfeiting. Two of those defendants entered pleas of guilty, while the cases of the remaining defendants will be set for trial. Shortly thereafter, the Prosecutor's Office brought charges against other accused persons for human trafficking. Those are the first criminal charges brought by the State Prosecutor who was appointed at the end of January 2003. The Rule of Law Pillar of my Office has worked closely with him to resolve issues related to the new codes enacted by the High Representative in January 2003, as well as to find additional resources to support the work of his office.

- As promised in my last report, we have created a new unit called the Anti-Crime and Corruption Unit (ACCU, formerly known as the Serious Crimes Unit) to provide my Office with a broad scope of support capabilities for the local prosecution, investigation and analysis of systemic organized crime and corruption. ACCU, in close cooperation with domestic agencies and authorities, has undertaken efforts to guide and support investigations and prosecution in multiple cases. At present, ACCU is primarily focused on guiding two major criminal investigation task forces initiated by my Office. At times, due to political and technical limitations for the local authorities, ACCU has also provided specialized support capacities, such as forensic audit work or specialized experts as court witnesses.

- ACCU is assisting in the assessment of cases to be transferred to the Prosecutor's Office of Bosnia and Herzegovina as part of the implementation of the new Criminal Code and Criminal Procedure Code of Bosnia and Herzegovina.

- During early May, ACCU worked with the European Union Police Mission (EUPM), at the request of the Minister of Interior of the Republika Srpska, to transfer a major organized crime case to the Criminal Division of the Court of Bosnia and Herzegovina and Prosecutor's Office of Bosnia and Herzegovina. The Prosecutor's Office brought charges against those defendants, who were ordered to pretrial confinement. One of the international prosecutors of the Prosecutor's Office handled the matter under the direction of the Chief State Prosecutor. This is a very serious case — perhaps the most significant human trafficking case in Bosnia and Herzegovina's history — and the fact that it is being tackled within Bosnia and Herzegovina's court system is a significant step forward.

- The head and deputy head of the Rule of Law Pillar visited Belgrade on 29 and 30 April to meet with officials from the Serbian Ministry of Justice and Ministry of Interior and the Chief Prosecutor. The purpose of the visit was to offer to facilitate the creation of operational protocols between these ministries and offices and their counterparts in Bosnia and Herzegovina in order to more effectively interdict criminal activities which transcend the borders of Bosnia and Herzegovina and Serbia. In addition, during the visit, the officials of my Office exchanged information with Serbian officials as to specific suspected criminal activities of interest to both Bosnia and Herzegovina and Serbia and arranged for further exchanges of information in regard to those suspects. Serbian officials were eager to establish the relationships suggested and to continue the exchange of such information.

- On 23 April 2003, I held a crime summit, which included attendance by the Ministries of Interior of both entities and the Ministry of Security of the State, together with the State Border Service and State Investigation and Protection Agency. EUPM also participated in this meeting. The purpose of the meeting was to address the impending end of the state of emergency in Serbia and the possibility that many persons apprehended in Serbia might flee to Bosnia and Herzegovina upon release from Serbia. At the meeting, I proposed to local officials a two-pronged approach to addressing this possibility. The short-term proposal included an immediate exchange of information with Serbian officials as to those persons to be released from custody in Serbia, in particular those released persons with business, family or other connections to Bosnia and Herzegovina. The longer-term solution included the development of operational protocols between appropriate agencies in Bosnia and Herzegovina and Serbia to address common issues related to criminals whose activities transcended the border between the two countries. The local officials of Bosnia and Herzegovina readily adopted the proposals put forward and pledged that they would undertake the suggested actions.

- The Rule of Law Pillar continued to have discussions with the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe in regard to the future of the Human Rights Chamber. These three organizations, in consultation with local officials, devised a plan which will process the large

backlog of cases pending in the chamber and also provide for future cases regarding alleged human rights violations to be handled by other institutions of Bosnia and Herzegovina. There have been several meetings with the Constitutional Court and with the Human Rights Chamber in order to discuss the proposed plan and to solicit the views of those institutions in order to identify issues which will need to be resolved during implementation of the plan. The plan was presented to the Peace Implementation Council (PIC) during its meeting in the middle of June.

- The Criminal Institutions and Prosecutorial Reform Unit (CIPRU) has worked with the state court and state prosecutor's office to rebalance their budgets. Of particular importance is the rebalancing of the budget of the prosecutor's office to enable the office to employ additional prosecutors and legal staff to handle the increased responsibilities of the office.

- The Constitutional Court of Bosnia and Herzegovina held a session on 30 May 2003. This was the first session of the court in more than a year. The first order of business for the court was the election of its president and three vice-presidents. One member of the court from the Republika Srpska remains to be appointed.

Attacks on networks supporting persons indicted for war crimes

3. On 7 March 2003, certain amendments to the banking agency laws in both entities so as to permit the entity banking agencies were imposed to freeze bank accounts of persons and firms providing financial support to persons impeding or obstructing implementation of the Dayton Peace Agreement. On that same date, acting on behalf of the entity banking agencies, those new provisions of the entity banking agency laws were used in order to freeze bank accounts of two individuals who we have good reason to believe have repeatedly provided financial support to persons indicted for war crimes.

4. On 7 July 2003, a further set of decisions were issued, freezing the bank accounts of several more individuals and removing Dragomir Vasic from his position as a member of the RSNA and Counsellor for Zvornik municipality. In all cases, the individuals were reliably believed to be violating article 19 of the Peace Agreement by providing material support to Radovan Karadzic.

5. We have also benefited from close cooperation with the EU and the United States. The EU has, at our initiative, put in place a visa ban list against a number of individuals suspected of obstructing ICTY in its mandate and providing material support to persons indicted for war crimes. The United States has also frozen the assets of a number of persons on similar grounds.

III. Jobs and economic/administrative infrastructure

6. In an effort to make a new beginning after the 5 October 2002 elections, and to finish the work of the last Government in the area of economics, 13 decisions were issued on 21 October 2002, designed to help promote growth in Bosnia and Herzegovina by means of a series of reforms in the banking, statistics land registry, communications and other areas.

7. An important initiative was launched on 12 November 2002 to dismantle barriers to business growth and job creation. The Bulldozer Initiative was designed to help businesses knock down as many roadblocks and cut as much red tape as possible to free up the economy for growth. Initially, the committee was coordinated by my Office and composed of the United States Agency for International Development, the World Bank, the European Commission, IMF and my Office. Domestic members include the Federation of Bosnia and Herzegovina, the Republika Srpska Employer's Confederation, the Business Women Confederation, the Foreign Investors Association and many regional or local business associations. Local business leaders are — and remain — very much in the driving seat. It is they who come up with examples of the most egregious barriers to business and they who take the lead in campaigning for their removal.

8. In December 2002, the Bulldozer Committee presented the Bosnia and Herzegovina Governments with a list of 50 economic roadblocks along with their respective legal solutions. Those proposed changes were presented to the relevant authorities (State Council of Ministers, Federation of Bosnia and Herzegovina Government and the Republika Srpska Government) during the first quarter of 2003. Businesses or business associations that submitted the requests had an opportunity to testify before the parliamentary assemblies' committees and advocate for reform, which will reinforce their role as major contributors to economic policy through the lobbying process. Local implementation committees coordinated by local business associations were set up in order to ensure proper reform implementation and follow-up. All 50 pieces of legislation were adopted, none imposed, by 4 June 2003, and the domestic authorities have assumed complete responsibility for the next phase of the project, which will involve six regional committees.

9. Apart from its impact on the economic reform agenda, the Bulldozer Committee and its successes represent the first major example of growth, in the business sector at least, of a genuine civil society in Bosnia and Herzegovina.

10. Concrete progress has also been made in a number of other areas as well during the reporting period, as described below.

Tax and fiscal structure

11. One of the tests I set out in my speech to the Bosnia and Herzegovina Parliament on 6 October 2002 was: "Reform the revenue system by beginning the process of establishing value added tax (VAT) at the state level and reforming customs". In February 2003, the Indirect Tax Policy Commission was established and tasked to undertake a number of activities to promote a single customs service for Bosnia and Herzegovina and a single/state-level VAT. Several presentations were made to senior politicians, technical consultations were undertaken, and public presentations and debates took place concerning VAT and customs issues.

12. On the tax front, good progress has been made. The Commission, led by former European Commission official Joly Dixon, an expert in EU indirect tax policy, agreed on the text of an interim law that established the Indirect Tax Authority (ITA) on 1 July, within the deadline set in my decision. It subsequently agreed a fully fledged framework law providing for the unification of the customs administrations in Bosnia and Herzegovina, the working methods and authority of ITA and its Governing Board. The Law will authorize ITA and its Governing Board to begin work on the establishment of VAT at the state level.

13. This legislation meets EU standards and would equip Bosnia and Herzegovina with a modern state-level system of indirect tax collection and a single, efficient customs service; it is now awaiting endorsement by the Council of Ministers and parliamentary approval. Its successful enactment into law and the start of its implementation will be a big step, in demonstrating that Bosnia and Herzegovina is capable of taking difficult decisions in this sensitive area, in tackling fraud and corruption and in moving towards EU compatibility. Significantly, the Law breaks new ground in two other areas. This will be the first time that article 3.5A of the Dayton Peace Agreement will be used to pass competencies from the Entities to the State and the first time that administrative areas will be established which conform to the natural economic regions of Bosnia and Herzegovina, and not the Inter-Entity Boundary Line.

Agriculture and forestry

14. A state-level veterinary law was passed but full implementation was delayed by the slow appointment of the new director for the State Veterinary Office. The new director was named in May 2003, and his initial tasks are to get the animal identification project under way, to adapt local regulations to EU standards and to secure sustainable financing over the next five years.

15. A Federation forestry law has been passed but some amendments have yet to be addressed in Parliament, thus slowing the broad implementation effort, including the closure of the existing 22 summaries (forest enterprises) and the establishment of one cantonal forest enterprise per canton to regularize and increase the flow of revenues at the local level.

Telecommunications

16. Progress has been made in the telecommunications sector by enacting the Law on Communications as part of the economic package, which will enable the regulator to implement rapidly a regulatory regime conducive to competition. Audits have been carried out in this sector and will be made public in the near future.

Electric power

17. Progress has been made on the implementation of the institutional arrangements. The Bosnia and Herzegovina Council of Ministers proposed the appointment of members of the State Regulatory Commission (SERC) to the Parliament of Bosnia and Herzegovina and the next step in the appointment process is the approval from the Parliament of Bosnia and Herzegovina. Appointment of SERC members will mark an important milestone in the reform process. Also, intensive efforts are aimed at ongoing implementation of the State Electricity Law, specifically the establishment of a state transmission company, state regulator and independent system operator.

18. In November 2002, Bosnia and Herzegovina signed a memorandum of understanding on the regional electricity market in southeastern Europe and its integration into the EU international electricity market. The memorandum was signed under the auspices of the Stability Pact with the goal of establishing an integrated regional electricity market in southeastern Europe by 2005 and ensure its integration into the EU internal electricity market. The regional market will be based

on the principles set out in the Electricity Directive and other legislation related to the operation of the EU market.

Transportation

19. The state Licensing Commission has commenced licensing of international and inter-entity bus services under the recently passed Law on International and Inter-entity Road Transportation. Once that process is completed, we anticipate that the Commission will turn its efforts towards distribution of truck licences in the field of international and inter-entity truck transport. With the creation of the Foreign Trade Chamber of Commerce and the recent introduction of the Law on Associations, the establishment of the Bosnia and Herzegovina Trucking Association now creates the conditions for going forward with the implementation of the TIR Carnet system, which will allow Bosnia and Herzegovina truckers movement throughout the EU without restrictions at borders.

20. In the field of rail transport, the Working Group on Rail Transport has concluded its meetings and a draft of a new state law on railways of Bosnia and Herzegovina has been prepared for presentation to the Council of Ministers. The law on railways for Bosnia and Herzegovina provides for state-level regulation of all railway operations, including safety in the country in line with constitutional powers over international and inter-entity transport, with the overall objective of freedom of movement throughout Bosnia and Herzegovina as well as compliance with EU standards.

21. The Samac Bridge was finally opened to passenger traffic for both road and rail transport, while the issue of opening it to freight traffic and the location of the customs facility is continuing to be addressed.

22. The signing of the Framework Agreement on the Sava Basin took place at a ceremony in Kranjska Gora, Slovenia, on 3 December. That agreement, along with the Protocol on Navigation, represents a step closer to establishing normal navigation on the Sava and through the Port of Brcko, as well as closer cooperation between neighbouring countries with respect to other aspects of the Sava Basin.

23. Finally, under the new structure for the Council of Ministers, a new post for a Minister of Communications and Transport has been established which will now provide a stronger basis for the development of a transportation policy and plans and for regulating transport at the state level.

Public administration reform

24. On 23 January, the head of the Civil Service Agency, who was appointed by my predecessor, reported to the Chair of the Council of Ministers that the Agency is now fully operational. The Agency is key to preventing any party patronage at the state level since it is responsible for the recruitment of civil servants. The Republika Srpska is setting up a similar agency with the financial and technical support of the international community, and my Office has facilitated the drafting of similar civil service legislation for the Federation of Bosnia and Herzegovina, a commitment made by the Bosnia and Herzegovina authorities under the rule of law targets. That law was adopted in May 2003 and we are now working with the United Nations Development Programme, which has agreed to act as the lead agency, to ensure that the Civil Service Agency is properly funded and staffed so the law can be properly

implemented. I have concerns, however, at the remaining level of dysfunction in government departments and ministers' offices. Attention will be required to this area and to the effectiveness of the wider civil service to improve the functionality of governments and public administration in general in the near future.

25. Meanwhile, serious problems are still encountered in politically motivated replacements of members of governing boards of various public bodies and appointments to civil service positions.

IV. The political environment

26. The initial period following the 5 October elections was dominated by government formation, but the state-level Council of Ministers, led by Prime Minister Terzic, has now been in office for some eight months. Prime Minister Terzic's administration is hampered by the constitutional dysfunction of the Council of Ministers (he does not appoint and cannot remove ministers — they owe their existence and loyalty to parties, not the Government) and lack of capacity and support within the institution of the Council as a whole. As the result, the output of the Council has been low, with limited legislative activity. The restructuring of the new ministries and bodies has also proceeded slowly.

27. The Entity governments face similar problems. In the Federation, the process of government formation in Canton 7 was finalized at the end of June, more than eight months after the elections. The Herzegovina-Neretva Canton was the last self-government unit in the entire Bosnia and Herzegovina to put its elected government in place. This required considerable prodding from my Office, culminating with the threat of serious fines for the parties involved in the obstruction.

28. The continuing division of Mostar remained a serious problem during the reporting period. Eight years after the war, the city of Mostar is a collection of municipalities without coordination and without the capacity to generate the development of the city. A commission comprised solely of local representatives was established in the spring to explore options for a permanent statute of the city, and to provide Mostar citizens with an opportunity to contribute to the debate about the future of their city without interference from the international community. By the beginning of August, however, the commission had achieved only limited results. A second attempt to create a new Mostar reform commission under international community auspices, will begin in September.

29. In the Republika Srpska, despite some initial posturing and rhetoric, such major processes as the Independent Tax Commission, the Defence Reform Commission and now the Intelligence Commission are functioning relatively smoothly.

30. The resignation of Mirko Sarovic as a member of the Presidency on 4 April 2003, in the wake of the ORAO arms-to-Iraq scandal was a step towards establishing political accountability in Bosnia and Herzegovina.

Security and defence

31. On 2 April 2003, in response to the ORAO issue, my Office issued several defence-related decisions to help address the systemic weaknesses exposed by the ORAO arms-to-Iraq scandal. These included amendments to the Entity defence laws

and constitutions in order to ensure that a similar situation would not arise again. On 9 May 2003, I established the Defence Reform Commission, chaired by former United States Assistant Secretary for Defense James Locher, which is tasked with proposing reforms, principally to the command and control of the armed forces in Bosnia and Herzegovina, and which — if agreed — will help the country achieve its declared goal of becoming a credible candidate for membership in the North Atlantic Treaty Organization (NATO) Partnership for Peace by January 2004. This Commission had made substantial progress as of August 2003 and is due to complete its work by mid-September.

32. There have been other significant developments in the defence area. Terms of reference for the Secretary-General of the Standing Committee on Military Matters (SCMM) have been agreed and he has been invited to attend the Bosnia and Herzegovina Council of Ministers, although not yet as a full member with voting rights.

33. On a more practical level, the SCMM secretariat is due to expand (from nine to about 88 personnel) over the next few months, which will allow the secretariat to begin operating as a fledgling "ministry", coordinating activity with other ministries and acting on behalf of the State of Bosnia and Herzegovina in matters relating to defence.

34. A decisive step forward has been made in reform of the intelligence services in Bosnia and Herzegovina. The Expert Commission on Intelligence Reform, headed by former senior Hungarian intelligence official and former Hungarian Ambassador to Bosnia and Herzegovina, Kalman Kocsis, was launched at the end of May 2003. The Commission is tasked with producing a proposal for setting up a single intelligence structure. It was due to produce the necessary legislative changes and other legal instruments, in line with democratic principles and practice elsewhere in Europe, by mid-September.

Srebrenica

35. I continue to chair the Executive Board of the Foundation of Srebrenica-Potocari Memorial and Cemetery, with my Office providing support and coordinating this important effort.

36. Following the ground-breaking ceremony that took place on 11 October 2002 at the Potocari site, work on phase I of construction began. In that phase, which was completed at the end of January, the site was prepared for the burials of up to 1,000 individuals. Phase II is now going ahead, which involves the provision of grave sites for approximately 9,000 additional individuals and construction of the Musala Mutual Crypt, with garden, service facilities and parking.

37. The burials of the first 600 identified individuals took place on 31 March 2003. A further 400 identified individuals were also buried on 11 July 2003.

38. At the request of surviving family members and following consultations with the Republika Srpska authorities, on 25 March 2003 I issued a decision transferring the ownership of the Battery Factory "A.S." a.d. Srebrenica to the Foundation of the Srebrenica-Potocari Memorial and Cemetery. The decision also established a commission, which is to determine the compensation to be paid by the Republika Srpska to the current owners and users of the Battery Factory by September 2003. The Battery Factory site has a special place in the memory of Srebrenica families

since it was the last place many of them saw their beloved relatives alive. The decision had the full support of the Srebrenica-Potocari Memorial Foundation's Executive Board. The Foundation, in consultation with families of victims, will determine the future use of the Battery Factory site.

39. The Executive Board of the Foundation has made intensive efforts over the period in question to raise funds, without which the Foundation would have been unable to implement the project. As a result of those fund-raising activities, the Foundation has received contributions of about 3.5 million euros that allowed work to begin at the site. The Human Rights Chamber issued a decision on 7 March 2003 ordering the Republika Srpska Government to pay 2 million convertible marka (KM) by 7 September 2003 to the Foundation and another 500,000 KM each year for the following four years. Since families opposed such a decision, the Executive Board agreed to proceed with fund-raising activities and to consult families on how to use those funds once the Republika Srpska pays. Therefore, approximately an additional 1.5 million euros are still needed to complete the project and the Executive Board continues to request the assistance of potential donors.

40. On 20 September 2003, former United States President Clinton will be the guest of honour at the official opening of the Cemetery, at the invitation of the Foundation.

Bosnia and Herzegovina in the region

41. A significant step was reached between Bosnia and Herzegovina and Croatia when Croatia managed, in January 2003, to ratify the provisionally applied agreement on the determination of border crossings of 6 April 2001. This is the first bilateral agreement to enter into force in this field. The newly constituted Bosnia and Herzegovina Presidency and President Mesic have agreed to do their utmost to complete pending procedures and negotiations regarding border issues and dual citizenship, and in early February they initiated a draft agreement on the local border zone regime and the three annexes to the Co-location Treaty of 17 June 2002. Those documents are now waiting to be signed by both Foreign Ministers.

42. Two developments in the relationship between Bosnia and Herzegovina and the former Federal Republic of Yugoslavia deserve special mention. First, an agreement on dual citizenship was signed on 29 October 2002 in Belgrade by the Bosnia and Herzegovina Minister for Civil Affairs and Communications and the Yugoslav Minister of the Interior. That agreement was ratified in 2003 by both countries and has now entered into force in both countries. Second, both heads of delegations to the commissions dealing with border issues initialled in December draft agreements on the local border zone regime and on a simplified regime to be applied in a zone in the eastern part of Bosnia and Herzegovina enmeshed with the territory of Serbia and Montenegro.

43. The murder of Serbian Prime Minister Zoran Djindjic on 12 March 2003 was a terrible blow to the region. The best tribute to Zoran Djindjic's memory will be to continue the work in which he was engaged to secure progress and stability in the region and its integration into mainstream Europe, and in so doing to demonstrate that such attacks cannot defeat democracy. Increased cooperation between Bosnia and Herzegovina and its neighbours in the fight against criminal networks — as described above — will be an important part of that effort.

International Criminal Tribunal for the Former Yugoslavia

44. The plan for domestic trial of war crimes in a special panel of the Court of Bosnia and Herzegovina has been the subject of several meetings during 2003. Meetings were held with the Ministries of Justice as well as the prosecutors of both entities and state. In addition, OSCE and the Council of Europe were invited to offer comments on the proposals. The recommendations resulting from the discussions with those groups and ICTY were presented to and approved by PIC on 12 June. The PIC Steering Board of Political Directors decision called for the establishment of a war crimes chamber within the Court of Bosnia and Herzegovina, and a war crimes department within the State Prosecutor's Office. I have been tasked to establish and co-chair with the relevant Bosnia and Herzegovina authorities an inter-agency implementation task force, involving other relevant international organizations, to coordinate the implementation of the project.

V. Returns

45. The number of refugees returning continues to be strong, exceeding 102,000 in 2002. According to the Office of the United Nations High Commissioner for Refugees (UNHCR) statistics, the total of registered returns to and within Bosnia and Herzegovina has risen to nearly 1 million people, including some 390,000 so-called minority returns. The State Ministry for Human Rights and Refugees, together with relevant Entity ministries — assumed a greater leadership role in the return process during 2002 and moved closer towards ownership of the remaining process. Despite this, many challenges towards achieving "sustainable return" remain.

46. On 30 January 2003, the Peace Implementation Council endorsed an annex VII (General Framework Agreement for Peace) (GFAP) Strategy, drawn up by the Bosnia and Herzegovina authorities, UNHCR and my Office in order to ensure that the progress continues. Beyond recognizing the need to facilitate as many as 500,000 additional returns in Bosnia and Herzegovina under domestic leadership over the next four years, the strategy provides a road map to build additional capacity within domestic institutions to take on these tasks as international organizations scale down their operations, recalibrate resources to address other priorities, and in some cases phase out completely. The strategy calls for the Reconstruction and Return Task Force to draw down by the end of 2003.

47. Property law implementation made decisive progress during the reporting period. The countrywide repossession rate of 67 per cent promises nearly full implementation by the end of 2002. Large urban centres, such as Sarajevo and Banja Luka, however, remain a source of concern, as they lag well behind the Entity averages of 71 per cent and 61 per cent in the Federation and the Republika Srpska, respectively. Since approximately 40,000 claims remain unimplemented in both Entities, the focus now is to ensure adequate budgeting for alternative accommodation at all appropriate levels of government. In addition, the domestic authorities, with the assistance of the international community, will introduce a package of minor amendments to property laws aimed at ensuring adherence to the principles of transparency and rule of law embodied in the new strategic direction for property law implementation. As partners, the international community and

domestic institutions will also work to ensure a smooth transfer of the Commission for Real Property Claims (CRPC) responsibilities to the local institutions.

48. Increasing leadership in the property repossession process by the Bosnia and Herzegovina Ministry for Human Rights and Refugees, together with the responsible entity ministries, is welcome. But that success raises increasing concerns about the lack of harmony in the property laws in the region. There are still some 21,000 Croatian Serbs who occupy the homes of others and who seek to either repossess their homes in Croatia and/or return. Increasingly, those families face eviction under Bosnia and Herzegovina's laws without their own long-term housing solutions because the recent amendments to property laws in Croatia have not gone far enough and have yielded little real results. Similarly, pre-war residents of other neighbouring countries in the region (Slovenia) have approached my Office with concern about their own eviction and are unable to repossess property and return to their own pre-war homes in the region. Solutions within Croatia and other former Yugoslav States must be identified for those individuals, which requires compatible property law throughout former Yugoslavia.

49. However, returns to Bosnia and Herzegovina from other parts of the region are progressing with increasing numbers of returns from both Croatia and from Serbia and Montenegro.

50. As returnees attempt to reintegrate into society, combined domestic and international efforts must ensure that their individual choice is sustainable. The legal framework necessary to ensure returnees' unbiased access to socio-economic facilities and opportunities is largely in place, but information on and enforcement of the applicable laws and agreements remains limited. To increase returnees' awareness of their rights, my Office has developed a number of public information campaigns that provide information on access to employment opportunities, education, health and utilities.

51. Many displaced persons still do not return to their pre-war residences because they feel they would be unable to rebuild their lives there. While many of the concerns are well grounded, some are based on incomplete information. To encourage displaced persons to consider return, my Office developed media programmes that increase the visibility of successful returnees and provide factual information on return conditions. In addition, my Office, the Sarajevo Economic Region Development Agency and the country's employment bureaux are jointly developing a system to make information on vacancies around the country more widely accessible.

52. In addition, there are many employment creation initiatives around the country, often targeting returnees in particular, but no study has ever compared the effectiveness and efficiency of the different approaches followed. To aid donor agencies in their programme designs for 2003, my Office conducted a survey among implementing organizations and provided donor agencies with their feedback on the advantages and drawbacks of the various types of programmes. Those efforts are aimed at rebuilding Bosnia and Herzegovina's multiethnic society with opportunities for all citizens, including refugees, displaced persons, returnees and the domiciled communities.

53. Although we are on track for the draw down of the Reconstruction and Return Task Force, and the handover of responsibility to local authorities at the end of

2003, there are still major tasks ahead. Draft legislative amendments have been agreed on some items but must still be presented to the Bosnia and Herzegovina parliaments. Discussion still continues among the international community and with Bosnia and Herzegovina ministries on two important institutional aspects: the Return Fund and the prospective Bosnia and Herzegovina institution which should review CRPC claims.

54. The fact that at a time when refugees and displaced persons are returning in large numbers, international financial assistance is rapidly decreasing, remains also a concern. Furthermore, Bosnia and Herzegovina domestic funds remain insufficient to cover needs.

VI. European Union Police Mission

55. On 1 January 2003, the European Union Police Mission began operations in Bosnia and Herzegovina. It followed on from the United Nations International Police Task Force (IPTF) operation and is intended to build on and secure IPTF successes in police reform. I would like to pay tribute to the United Nations for their achievements in Bosnia and Herzegovina with the International Police Task Force and to thank them for the smooth transition to the EUPM operation.

56. EUPM is the European Union's first crisis management operation under the European Security and Defence Policy. The Mission consists of 500 police officers and 50 civilian experts from 33 States, led by Police Commissioner Sven Frederiksen, under my overall supervision in my capacity as Special Representative of the European Union. Commissioner Frederiksen knows that he can count on my total support, both as part of the EUPM chain of command and as High Representative.

57. On 24 January 2003, I issued decisions which will enable EUPM to recommend to me the removal, as a last resort, of police officers who obstruct the implementation of GFAP. The same set of decisions enabled my Office to monitor trials and investigations in certain circumstances, another role previously performed by IPTF. I will not hesitate to take action, if the Commissioner requests it of me, against any police officers that obstruct the work of EUPM and the implementation of GFAP.

58. EUPM programmes are intended to cover all areas of law enforcement. At the outset of the mission, however, priority has been given to two particular issues: safety of returnees and the fight against organized crime. Trafficking in human beings is part of the latter priority and will be addressed as part of this effort.

59. EUPM is not, however, a substitute for Bosnia and Herzegovina police engagement. Seven years after the war, it is time for Bosnia and Herzegovina authorities to take on their law enforcement responsibilities. Local ownership is the key to an effective and sustainable rule of law. It is also the key to the country's progress towards European integration. EUPM's role was accordingly designed to monitor, mentor, advise and assist Bosnia and Herzegovina in this process but not to do its work for it.

VII. Media development

60. On 31 December 2002, I closed my Office's Media Development Department. The PIC directives called for "the establishment of free and pluralistic media throughout Bosnia and Herzegovina". More concretely, they called for establishment of a politically independent, transparently funded public service broadcasting sector, in conformity with European standards, which should be balanced by a strong and viable commercial sector. Both sectors should be regulated by a strong, independent regulatory body, which would determine standards for content and allocate media frequencies. In order further to enhance freedom of expression, PIC called for the adoption of legislation covering freedom of information and the decriminalization of defamation, consistent with accepted international democratic standards etc.

61. My Office's Media Development Department played the leading role in promoting those policies. The following achievements have been made in implementing those directives:

- The Communication Regulatory Agency (CRA), established in 1998, became an indigenous, independent and self-sustaining broadcasting and telecommunications regulator, in accordance with best international practice. CRA has successfully completed the process of issuing long-term licences for all broadcasters that qualified.

- In August 2002, the Bosnia and Herzegovina Parliament adopted a package of laws on the public broadcasting system in Bosnia and Herzegovina. Previously, two High Representative decisions regulated that area and provided for the establishment of Federation Television in October 2001, the launch of the state-wide Bosnia and Herzegovina Radio 1 in May 2001 and the launch of the first element of Bosnia and Herzegovina Television, Bosnia and Herzegovina TV Main News in May 2002.

- In the commercial broadcasting sector, the Open Broadcast Network survived the rapid withdrawal of international financial aid in 2000 and has successfully attracted international investment. Also, the United States-funded Mreza Plus commercial TV network is making headway towards economic sustainability. Sustainability of both the commercial and public broadcasting sectors has been significantly enhanced by the CRA broadcast licensing process, which reduced the over-saturated market of almost 300 broadcasters by nearly 30 per cent.

- With the Defamation Law enacted in the Federation of Bosnia and Herzegovina in November 2002, freedom of information laws consistent with accepted international democratic standards are now in place at the entity and state levels.

- With regard to the press, self-regulation was opted to serve as a major defence to democratic freedoms. The establishment and subsequent operations of the Press Council for Bosnia and Herzegovina has been a major step forward in protecting press freedoms and promoting journalists ethics. It is now up to the Press Council to prove that it is capable of enforcing adherence to the principles laid down in the Bosnia and Herzegovina Press Code.

62. My Office will continue monitoring developments in the Bosnia and Herzegovina media and assisting, where necessary, in accordance with its mandate under the Peace Agreement. The mandate of my broadcasting agent expired on

30 June 2003, and we are now working to ensure that the Bosnia and Herzegovina authorities establish a sustainable mechanism for financing CRA that will ensure its continued independence and the maintenance of European standards.

VIII. Mission implementation plan

63. In December 2002, the PIC Steering Board endorsed my Office's Mission Implementation plan (the full text of the plan can be found on our web site at http://www.ohr.int/ohr-info/ohr-mip/default.asp?content_id=29145). The plan outlines six core tasks for my Office:

- Entrenching the rule of law.
- Ensuring that extreme nationalists, war criminals, and their organized criminal networks cannot reverse peace implementation.
- Reforming the economy.
- Strengthening the capacity of Bosnia and Herzegovina's governing institutions, especially at the state level.
- Establishing state-level civilian command and control over armed forces, reforming the security sector, and paving the way for integration into the Euro-Atlantic framework.
- Promoting the sustainable return of refugees and displaced persons.

64. Each task is divided into several subprogrammes, and my Office's departments are responsible for defining and implementing the steps towards each goal. During the reporting period, we presented the PIC Steering Board with two informal updates, in April and June. A formal report on and assessment of the first year of the plan will be prepared in early 2004.

IX. Reporting schedule

65. In order to better satisfy the requirements of Security Council resolution 1031 (1995), in which the Council requested the Secretary-General to submit to the Council reports from the High Representative in accordance with annex 10 of the Peace Agreement and the Conclusions of the London Peace Implementation Conference of 8 and 9 December 1995, I propose to submit my reports to you for onward transmission to the Security Council on a more regular schedule. The next report will cover the period from 1 September to 31 December 2003 and you will receive it in January 2004. From then on, reports will cover a six-month period and you will receive them in January and July each year. Should you or any Council member require information at any other time, I would be pleased to provide an update in the form of a letter.